Docket D.T.E. 02-40

Investigation by the Department of Telecommunications and Energy on its own Motion into the Provision of Default Service

Reply Comments of the Union of Concerned Scientists,
Massachusetts Energy Consumers Alliance,
Conservation Law Foundation

September 9, 2002

The Union of Concerned Scientists, Massachusetts Energy Consumers Alliance, and the Conservation Law Foundation are pleased to offer the following brief reply comments in this proceeding. These comments supplement our Initial Comments in this proceeding filed at the Department of Telecommunications and Energy ("DTE") on August 9, 2002. The purpose of these reply comments is to highlight a few points in response to the Initial Comments of other participants in this proceeding.

1. Consumers will benefit from long-term sales agreements for the procurement of renewable energy and certificates to meet the RPS requirement

Many of the initial comments in this proceeding reinforce our assertion that Default Service ("DS") design – particularly over-reliance on short-term DS procurement cycles – harms customers in two ways related to renewable portfolio standard ("RPS") compliance. First, current DS design and short-term procurement will result in RPS compliance costs that are unnecessarily high. Second, short-term procurement will prevent progress toward the goal of the RPS - fostering the development of new, renewable generation.

Short-term procurement cycles result in higher costs of RPS compliance since they drive suppliers to the costliest compliance path, and current Default Service design provides no reason for suppliers to seek more cost-effective compliance strategies. Many commenters emphasize that excessive reliance on short-term markets for energy procurement can increase the cost of Default Service (see, e.g., DOER Initial Comments at 12-13, 16). This problem is even more acute with regard to procurement of renewable energy and RPS compliance costs. In their Initial Comments the MTC explains, as we did in our Initial Comments, the cost impacts of short-term Default Service Procurement cycles (MTC Initial Comments at 5-6). The higher cost of compliance is due to the combined effect of missing lower cost opportunities that would be available through long-term contracting, and the allure of simply paying the Alternative Compliance Payment of $50/MW.[1]

[1] Described in our Initial Comments at 7.

Current Default Service design, which was developed prior to the promulgation of RPS regulations by the Division of Energy Resources and prior to the creation of the Generation Information System, imposes no discipline on RPS compliance strategies. It indeed poses a significant hurdle (if not an outright barrier) to cost-effective compliance. If the Department allows Default Service providers to simply roll RPS compliance costs into the DS cost without review (as they are now), there is no guidance to default service providers and no accountability for sound compliance decisions and hence no incentive to seek efficient and cost-effective compliance paths.

In addition to increasing compliance costs, short-term procurement hinders achievement of the RPS goal of fostering the development of new renewable resources. In Initial Comments, the MTC and our organizations emphasized that long-term supply agreements (10-20 years) are critical to successful financing of new renewable projects (UCS et. al Initial Comments at 5-9, MTC Initial Comments at 7-9). The MTC also notes that compliance through ACPs is not desirable for achieving RPS goals. While ACPs could raise large sums of money, we agree with other commenters that the uncertainty of the revenue stream and its utilization year to year would not provide the long term certainty that is necessary for financing new renewable resources (MTC Initial Comments at 6).

Commenters could argue that the Department should be indifferent to the costs of RPS compliance for Default Service Supply, and that compliance costs should be one of the many factors upon which competitive suppliers can improve over Default Service. However, the significant impacts that Default Service design will have on achieving the Massachusetts' policy goal for the RPS is sufficient reason for the Department to take affirmative steps to coordinate Default Service Policies with the RPS. Finally, as emphasized in our Initial Comments, incorporating renewable energy sources in the Default Service supply mix is sound business strategy for reducing price volatility and increasing reliability (UCS et. al. Initial Comments at 4-5).

We reiterate our initial recommendations, and endorse the recommendation of MTC, that the Department should (1) authorize distribution companies to enter into long term contracts for RPS eligible energy and certificates or RPS certificates; (2) provide distribution companies certainty regarding cost recovery during the period for which they must supply default service; and (3) plan to scrutinize RPS compliance carefully (Initial Comments at 9-10, MTC Initial Comments at 8-9).

2. Both retail and wholesale models must include mechanisms for long-term procurement of renewable certificates, or certificates and energy, for RPS compliance.

The initial comments highlight two different models for default service procurement: a retail and a wholesale model. Several commenters support the retail model where customers would obtain DS from competitive retail suppliers (see, e.g., Initial Comments of Competitive Retail Suppliers at 7-9, PG&E National Energy Group at 7-9, Centrica at 6, 15, National Energy Marketers Association at 5-6, Massachusetts Electric Company at

7-10). And several commenters support the wholesale model whereby Distribution Companies would continue to provide DS through competitive solicitations (see, e.g., NStar Electric Initial Comments at 6-8). Regardless of which model the Department ultimately adopts, it is important that the Department take steps to minimize the costs that customers pay for RPS compliance. It is essential to the achievement of RPS goals that the Department's final decision include provisions for long-term arrangements regarding RPS compliance obligations.

Several commenters endorse the idea of staggered two-year solicitations for Default Service Supply for small customers (see, e.g., Massachusetts Electric Company at 10, Division of Energy Resources at 16-23, The Energy Consortium at 2).[2] These proposals illustrate the feasibility and acceptance of a separate solicitation for a portion of default service load. If a distribution company can commit to DS supply through staggered two-year solicitations for an eighth of its default service load each quarter, it can certainly commit to specific and more infrequent solicitation for RPS certificates and renewable energy or compliance certificates.

In general terms, if the Department decides upon a wholesale model for DS procurement, the Distribution Company could issue a separate solicitation for Default Service RPS compliance. The Distribution Company would then select the most cost-effective compliance strategy (which could be RPS certificates and renewable energy or certificates only).

If the Department decides upon a retail model for DS procurement, there could be two or more options for developing a long-term compliance strategy. One option would be for the Distribution Company to remain responsible for the RPS compliance strategy, and to assign the costs of that strategy in the same way as DS customers are assigned to competitive retail suppliers. Another option would be to make efficient RPS compliance strategy a performance criteria in evaluation of bids for DS supply (with special scrutiny for plans to rely on ACPs).

The Department should ensure and encourage long-term RPS compliance strategies regardless of whether it adopts other commenters' retail models or wholesale models.

3. Consumers will benefit from DTE facilitation of municipal aggregation.

Many commenters in this proceeding endorse a retail model for default service supply where customers would receive default service directly from competitive retail suppliers. Commenters recommend that customers be assigned to retail suppliers through an auction, through balloting, or through other mechanisms (see, e.g., Initial Comments of Competitive Retail Suppliers at 10-11, Massachusetts Electric Company at 7-10, PG&E National Energy Group at 7-9). We believe that customers will benefit more from municipal aggregation than from use of customer assignment to force the creation of a competitive retail market for default service supply. The Department is in a unique

[2] The Division of Energy Resources also recommends staggered solicitations for larger customers (Initial Comments at 24).

position to foster the municipal aggregation provision of the Restructuring Act, and should do so.

Municipal aggregation is also particularly likely to provide benefits to the small and medium residential and commercial customers, the vast majority of which are on Standard Offer and Default Service. Many of the commenters specifically recognize that the low percentage of competitive supply for these customers highlights a need for specific targeted efforts to supply these customers (see, e.g., Initial Comments of Competitive Retail Suppliers at 5, Massachusetts Electric Company at 4-6, Division of Energy Resources at 9-10). Municipal aggregation is a viable option that can address concerns such as identified by the Massachusetts Community Action Program Directors, Inc. over price stability, robust supply, and consumer protection.

Additionally, municipal aggregation could reduce the number of customers on Default Service, particularly the small and medium size residential and commercial customers that have not selected competitive retail suppliers. Under the municipal aggregation provision of the Restructuring Act customers must affirmatively opt-out of municipal aggregation. As a result, a municipal aggregation plan has the potential to be more inclusive than other retail supply options.

The Cape Light Compact is the largest municipal aggregator in the state (Cape Light Compact Initial Comments at 2). Other cities, such as the City of Newton, are exploring municipal aggregation options (City of Newton Initial Comments). The Department should take specific steps to facilitate these efforts, and ensure that Massachusetts customers enjoy the benefits of municipal aggregation.

We request that the Department reduce the barriers to, and facilitate, local government aggregation.

4. There are several options for enhancing the market for green power supply.

We believe that there are several ways that the Department could consider for fostering the retail green power market in Massachusetts. For example, in Initial Comments the MTC identified three ways that the Department could consider, and the Massachusetts Energy Consumers' Alliance suggested a fourth.

- Utility Default Service green power option: This approach has been adopted in Oregon, where residential customers do not have retail choice (See, e.g. MTC Initial Comments at 11-13). Niagra Mohawk has also recently agreed in a settlement to offer renewable energy options to its customers.
- Assignment of Default Service customers to competitive suppliers through an auction (MTC Initial Comments at 13).
- Utility facilitation for green power marketers (MTC Initial Comments at 14).
- Targeted approaches to encourage a small percentage of consumers to purchasegreen power products by switching their generation service from the

distribution company to a competitive green power supplier's "delivered"electricity product (Mass Energy Initial Comments at 2).

We recommend that the Department explore this subject further, since so many of its decisions and policies affect the structure of the retail market, and thus the retail options available to customers. Consideration should be given to whether some options would undermine other options, or indeed if there are opportunities for multiple approaches and experimentation. Overall, it is the collective view of these signatories that a fundamental aspect of restructuring should be to provide consumers with easy opportunities to choose green power in addition to requirements of suppliers to comply with the RPS.